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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,451	04/14/2004	Thomas Charles Meiller	DP-310739	6595

7590

04/26/2006

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EXAMINER
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HOPKINS, ROBERT A

ART UNIT	PAPER NUMBER
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1724

DATE MAILED: 04/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/824,451

Applicant(s)

MEILLER ET AL.

Examiner

Robert A. Hopkins

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4-14-04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

**DETAILED ACTION*****Claim Rejections - 35 USC § 112***

Claims 5-13 are rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure which is not enabling. A partition which is operable to permit fluid communication between the first composite material and the second composite material which is critical or essential to the practice of the invention, but not included in claim 5 is not enabled by the disclosure. See *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976). Examiner notes the preamble of claim 5 includes "a device for capturing and storing evaporative emissions", therefore the fluid to be separated in the device needs to pass from the first composite material to the second composite material. Currently, claim 5 reads on a device having a solid partition which moves within a chamber, however the solid partition would prevent fluid from moving from the first composite material to the second composite material, as is required to properly separate vapors from an airflow. Examiner respectfully requests applicant insert the limitations of claim 6 into claim 5 to provide for permitting fluid communication between the first composite material and the second composite material. Claims 6-12 depend on claim 5 and hence are also rejected.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Japanese reference(2002-48016).

Japanese reference teaches a device for maintaining composite materials substantially separate within a chamber comprising a housing(2) including the chamber, wherein the chamber contains a first composite(10 in housing part 4), a second composite material(10 in housing part 4a), and a partition(8) inserted therebetween, wherein the partition is operable to move(see abstract) within the chamber while retaining the first composite material substantially separate from the second composite material and wherein the partition is operable to permit fluid communication(by open grid structure) between the first composite material and the second composite material. Japanese reference further teaches wherein the partition comprises a rigid plate with a plurality of ribs(11 in figure 6) attached thereto, wherein the rigid plate fits within the chamber along a plane substantially perpendicular to a longitudinal axis of the chamber, wherein external dimensions of the rigid plate are slightly less than internal dimensions of the chamber in the plane perpendicular to the longitudinal axis of the chamber, wherein the plurality of ribs is operable to maintain the rigid plate substantially perpendicular to the longitudinal axis of the chamber. Japanese reference further teaches wherein each rib is attached substantially at an outer perimeter of the rigid plate. Japanese reference further teaches wherein each rib is substantially parallel to a longitudinal axis of the chamber.

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Claims 5-13 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Japanese reference(2002-48016).

Japanese reference teaches a device for capturing and storing evaporative emissions comprising a housing(2), the housing including a chamber containing a first composite(10 in housing part 4), a second composite material(10 in housing part 4a), and a partition(8) inserted therebetween, wherein the partition substantially separates the first composite material and the second composite material, and wherein the partition is operable to move(see abstract) within the chamber while retaining the first composite material substantially separate from the second composite material.

Japanese reference further teaches wherein the partition is operable to permit fluid communication(by open grid structure) between the first composite material and the second composite material. Japanese reference further teaches wherein the partition comprises a rigid plate with a plurality of ribs(11 in figure 6) attached thereto, wherein the rigid plate fits within the chamber along a plane substantially perpendicular to a longitudinal axis of the chamber, wherein external dimensions of the rigid plate are slightly less than internal dimensions of the chamber in the plane perpendicular to the longitudinal axis of the chamber, wherein the plurality of ribs is operable to maintain the rigid plate substantially perpendicular to the longitudinal axis of the chamber.

Japanese reference further teaches wherein each rib is attached substantially at an outer perimeter of the rigid plate. Japanese reference further teaches wherein each rib is substantially parallel to a longitudinal axis of the chamber. Japanese reference further teaches a first end and a second end of the chamber, wherein the second end of

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the chamber comprises a device operable to exert a compressive force on the second composite material. Japanese reference further teaches wherein the partition is operable to transfer at least a portion of the compressive force exerted by the second end of the chamber to the first composite material. Japanese reference further teaches wherein the first composite material is operable to capture and store at least a portion of evaporative emissions. Japanese reference further teaches wherein the second composite material is operable to capture and store at least a portion of evaporative emissions.

Claims 14-19 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Japanese reference(2002-48016).

Japanese reference teaches a partition for maintaining a first composite material substantially separate from a second composite material comprising a rigid plate with a plurality of ribs(11 in figure 6) attached thereto, wherein the rigid plate is inserted within the chamber along a plane substantially perpendicular to a longitudinal axis of the chamber, wherein external dimensions of the rigid plate are slightly less than internal dimensions of the chamber in the plane perpendicular to the longitudinal axis of the chamber, wherein the plurality of ribs is operable to maintain the rigid plate substantially perpendicular to the longitudinal axis of the chamber, and wherein the partition is operable to move within the chamber. Japanese reference further teaches wherein each rib is attached substantially at an outer perimeter of the rigid plate. Japanese reference further teaches wherein each rib is substantially parallel to a longitudinal axis of the chamber. Japanese reference further teaches wherein the partition is operable to

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transfer at least a portion of the compressive force exerted by the second end of the chamber to the first composite material. Japanese reference further teaches wherein the partition is operable to permit fluid communication (by open grid structure) between the first composite material and the second composite material. Japanese reference further teaches wherein the first composite material is operable to capture and store at least a portion of evaporative emissions.

Claims 20 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Japanese reference (2002-48016).

Japanese reference teaches a method to maintain a first composite material substantially separate from a second composite material, each contained within a chamber (4, 4a) comprising inserting a partition (grid 8) into the chamber between the first composite material and the second composite material, wherein the partition is operable to move within the chamber while maintaining the first composite material substantially separate from the second composite material, wherein the partition comprises a rigid plate with a plurality of ribs attached thereto, wherein the rigid plate fits within the chamber along a plane substantially perpendicular to a longitudinal axis of the chamber, wherein external dimensions of the rigid plate are slightly less than internal dimensions of the chamber in the plane substantially perpendicular to the longitudinal axis of the chamber, wherein each rib is attached substantially at an outer perimeter of the rigid plate, wherein each rib is substantially parallel to a longitudinal axis of the chamber, wherein the plurality of ribs is operable to maintain the rigid plate substantially perpendicular to the longitudinal axis of the chamber.

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Claim 1 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Reddy(5408976).

Reddy teaches a device for maintaining composite materials substantially separate within a chamber comprising a housing(110 in figure 2) including the chamber, wherein the chamber contains a first composite(115), a second composite material(114), and a partition(111) inserted therebetween, wherein the partition is operable to move(note expandable and contractible adsorbent; column 4 lines 11-13)) within the chamber while retaining the first composite material substantially separate from the second composite material and wherein the partition is operable to permit fluid communication(by plurality of openings) between the first composite material and the second composite material.

Claims 5,6,10-13 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Reddy(5408976).

Reddy teaches a device for capturing and storing evaporative emissions comprising a housing(110 in figure 2) including a chamber, wherein the chamber contains a first composite(115), a second composite material(114), and a partition(111) inserted therebetween, wherein the partition substantially separates the first composite material and the second composite material , and wherein the partition is operable to move(note expandable and contractible adsorbent; column 4 lines 11-13)) within the chamber while retaining the first composite material substantially separate from the second composite material. Reddy wherein the partition is operable to permit fluid communication(by plurality of openings) between the first composite material and the

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second composite material. Reddy further teaches a first end and a second end of the chamber, wherein the second end of the chamber comprises a device operable to exert a compressive force on the second composite material. Reddy further teaches wherein the partition is operable to transfer at least a portion of the compressive force exerted by the second end of the chamber to the first composite material. Reddy further teaches wherein the first composite material is operable to capture and store at least a portion of evaporative emissions. Reddy further teaches wherein the second composite material is operable to capture and store at least a portion of evaporative emissions.

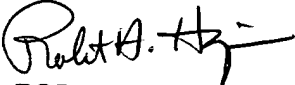
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert A. Hopkins whose telephone number is 571-272-1159. The examiner can normally be reached on Monday-Thursday, 7:30am-6pm, every Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571-272-1166. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Rah  
April 24, 2006

  
ROBERT A. HOPKINS  
PRIMARY EXAMINER  
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